

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. For several years the petitioner, pursuant to a Family Court ruling in a CHINS proceeding, had custody of and provided primary care for her grandchild. During this time, she received the child support that was being paid to OCS by the child's father. This child support was counted as income in determining the amount of the petitioner's Food Stamps.

2. In August 2009, the petitioner's grandchild returned to living with the child's mother, the petitioner's daughter. Beginning that month, the petitioner turned over the child support check she continued to receive from OCS to her daughter.¹ The Department eventually agreed that beginning in August 2009 this money was no longer available to the petitioner in determining the amount of her Food Stamps. The parties also agree that beginning in August 2009 the size of the petitioner's Food Stamp household was reduced from two persons to one.

3. The remaining dispute in this case concerns the Department's policy of counting child support as income for Food Stamp purposes two calendar months after it is, in fact, received by OCS. Although her grandchild was not living with her in August and September 2009, the Department attributed the child support the petitioner had received in June and July 2009 as income to the petitioner in August and September, even though her household size had, by then, been reduced to one person. Understandably, the petitioner feels her Food Stamps should have been increased for August and

¹It was not until several months later that OCS began paying the child support directly to the petitioner's daughter.

September to reflect the amount of income she, in fact, received in those months.

4. The Department points out, however, that the same policy was in effect when the petitioner's grandchild first came to live with her. Although the petitioner does not specifically recollect, neither does she dispute the Department's representation that, based on its Food Stamp payment records, when the petitioner first began receiving child support for her grandchild, it was two months before it was counted as income in determining the petitioner's Food Stamps. Thus, the amount of Food Stamps the petitioner received during the entire time she received child support for her granddaughter "evened out" based on the two-month delay at *both* the outset and termination of her grandchild living with her.

ORDER

The Department's decision is affirmed.

REASONS

In order to calculate Food Stamp income in a manner consistent with the way child support is required to be treated for RUFA purposes (see W.A.M. § 2240.2[1]) the Department's Food Stamp policies set out a similar provision

that "child support used in the Food Stamp budget in any given month will be an estimate based on child support received and intended for a period two months ago".

Procedures Manual § P-2560(H). This policy has been in effect at least since 1994. As noted above, the petitioner does not dispute that the same policy was applied to her case when she first began receiving Food Stamps for her grandchild, and that, over time, the two month delay in attribution "balanced out", so that she did not end up gaining or losing any benefits during the time her grandchild lived with her.

Inasmuch as there is no indication that the petitioner has suffered a net loss of any benefits, and inasmuch as the Department was following a clear, consistent, and rational policy, the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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